

3 IN THE MATTER OF:)
)
4 Southern Renovations, LLC,) Docket No. 12.14-106531A
 1111 Hanson Court)
5 Murfreesboro, Tennessee 37129)

March 31, 2010

BEFORE: The Honorable Thomas Stovall,
Administrative Judge

For the State: Mr. Michael D. Driver
Asst. General Counsel
TN Dept. of Commerce & Insurance
500 James Robertson Parkway
Davy Crockett Tower
Nashville, TN 37243-0569

WILMA O. HUTCHISON
Professional Court Reporter
400 Rivercrest Court
Nashville, TN 37214
(615) 889-6288

1 The aforementioned cause came on to be heard on
2 March 31, 2010, beginning at approximately 11:00 a.m., at the
3 Andrew Johnson Building, Third Floor Conference Room,
4 710 James Robertson Parkway, Nashville, Tennessee, before
5 Chairman Keith Whittington and board members Mr. Ernest M.
6 Owens, Mr. Ronnie Tickle, Mr. Marvin Sandrell, and Mr. Jerry
7 Hayes. Also present was Ms. Carolyn Lazenby, Executive
8 Director, and Ms. Nicole Canter, Paralegal.

9 The following proceedings were had, to wit:

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1 DELIBERATIONS BY THE BOARD

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3 THE CHAIRMAN: I'll open the Board up for
4 findings of fact. I think it's pretty well explained here in
5 the notice of hearing and charges that they have contracted
6 without a license. They have contracted without a home
7 improvement license. The one thing I will ask His Honor is,
8 is that two separate charges?

9 ADMINISTRATIVE JUDGE: Are those two --
10 well, I'll kick it back to you. Are those two separate
11 statutory violations? Mr. Driver -- I'll tell you what.
12 Mr. Driver, could you help us out on this?

13 MR. DRIVER: I can, Your Honor. Those are
14 two separate statutory schemes and hence two separate
15 violations.

16 THE CHAIRMAN: Okay.

17 ADMINISTRATIVE JUDGE: But you have
18 pled -- you've only pled one, correct, sir, or am I wrong
19 about that?

20 MR. DRIVER: Actually conclusion of law
21 No. 4 is a violation of the Contractors Law 62-6-103(a)(1) --

22 ADMINISTRATIVE JUDGE: Oh, you're right.

23 I see.

24 MR. DRIVER: Conclusion of law No. 8 is

25 the home improvement contracting violation.

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1 ADMINISTRATIVE JUDGE: Yeah, I see that

2 now. Does that clarify that, Mr. Whittington?

3 THE CHAIRMAN: I just wanted to make that

4 clear. That makes the findings of fact easier and more

5 explained if we need to find -- or should you want to make a

6 motion, a finding of fact, that he actually violated the law

7 from the State Contractors Licensing Law and the State Home

8 Improvement Law as stated. So I'll entertain a motion.

9 MR. SANDRELL: So move.

10 MR. TICKLE: Second.

11 THE CHAIRMAN: Okay. We have a motion

12 that we do find, in fact, that the defendant, Southern

13 Renovations, LLC, has violated the Tennessee State Contractors

14 License by not -- am I not --

15 ADMINISTRATIVE Judge: Well, now, are

16 you -- let's go back to the findings of fact, and let's take

17 those up first.

18 THE CHAIRMAN: Okay. I see.

19 ADMINISTRATIVE Judge: You all make a
20 decision on your facts and then make a decision on your
21 conclusions of law, like we did in the previous case.

22 THE CHAIRMAN: Right. We need to go back
23 then. Since we never got a motion completed, can we just
24 start from scratch?

25 ADMINISTRATIVE JUDGE: Yes.

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1 THE CHAIRMAN: That on the notice of
2 hearing and charges here, if someone would like to make a
3 motion that we agree with the allegations of facts 1 through
4 8?

5 MR. SANDRELL: So move.

6 MR. TICKLE: Second.

7 THE CHAIRMAN: I have a motion and a
8 second. Any discussion? All in favor say aye? Opposed
9 likewise? Okay, now that we have found that we accept the
10 findings of fact, we've got to reach a conclusion of law. The
11 conclusion of law would be what laws were violated. Those
12 laws are stated in the alleged conclusions of law section 1,
13 2, 3, 4, 5, 6, 7, and 8. I'll entertain a motion that we
14 agree that the conclusions of law were violated.

15 MR. TICKLE: Motion.

16 MR. SANDRELL: Second.

17 THE CHAIRMAN: Any discussion? All in
18 favor say aye? Opposed likewise? Motion carries. Now I'll
19 entertain a motion for a penalty. Mr. Driver has made a
20 recommendation.

21 MR. TICKLE: I'd like to make a motion
22 that we fine him \$11,000.

23 THE CHAIRMAN: Okay.

24 MR. SANDRELL: Second.

25 THE CHAIRMAN: We have a motion and a

6

1 second. Is there any discussion?

2 MR. OWENS: Are we going to split the
3 penalty for each violation?

4 MR. TICKLE: Yes. That's why I came up
5 with 11,000. It's 5,000 for each one and \$500. I said \$5500
6 in my head for each one of them, so that's the reason I made
7 it \$11,000 total.

8 MR. OWENS: Okay.

9 THE CHAIRMAN: Just as part of the
10 discussion of your motion -- and you may want to make an
11 amendment to it -- do we need to add costs, or is that
12 something, Your Honor, that's automatically added?

13 ADMINISTRATIVE JUDGE: No. You need to

14 make a decision as to whether or not you want to assess costs.

15 THE CHAIRMAN: Does someone want to make
16 a -- do you want to amend your motion?

17 MR. TICKLE: I'd like to amend my motion
18 and yield to Marvin. He's going to make a motion.

19 MR. SANDRELL: I'll make a motion that we
20 add the costs to the \$11,000.

21 THE CHAIRMAN: He can just amend his
22 motion to add the costs, and then whoever made the motion --
23 seconded it can amend their second. So that's all I'm asking
24 you to do is just to amend the motion to add costs.

25 MR. TICKLE: I'll do so.

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1 THE CHAIRMAN: All in favor of the motion
2 as it is amended say aye? Opposed likewise? Motion carries.

3 ADMINISTRATIVE JUDGE: Policy statement,
4 reasons for your decision.

5 THE CHAIRMAN: The reason for your
6 decision?

7 MR. TICKLE: The reason for the decision
8 is on item No. 8, I find him in violation of Tennessee Code
9 62-6-103(a): Constitutes grounds for disciplinary action
10 against respondent, including an assessment of civil penalty
11 up to \$500 -- \$5,000 per offense of unlicensed contractor and

12 civil penalty of up to \$500 per offense of unlicensed home
13 improvement contractor's work. So it's \$5500 per offense that
14 we have before us, so that would make a total of \$11,000 for
15 the offenses. And then on top of that is costs, and I don't
16 know what figure to put on costs. Somebody will have to help
17 me on that.

18 ADMINISTRATIVE JUDGE: Well, they would be
19 determined later. Is that adequate?

20 THE CHAIRMAN: As a policy statement?

21 ADMINISTRATIVE JUDGE: You know, typically
22 it's more generic, to protect the health and safety of the
23 citizens against unlicensed contractors, that kind of thing.
24 It's more just your policy. Why are you finding a violation?
25 What's the motivation of the Board here?

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1 THE CHAIRMAN: The reason we found the
2 violation in the policy of this Board has long been that you
3 should be licensed in the state of Tennessee as a contractor
4 or as a home improvement contractor. We've found Southern
5 Renovations guilty of not holding a contractor's license.
6 Therefore, the policy of the Board has been, and will continue
7 to be, to issue civil penalties based on the findings of fact,
8 and conclusions of law, and severity of the -- I'm trying to

9 think of a word here. I've lost it.

10 MR. OWENS: Offense.

11 THE CHAIRMAN: Offense. Thank you very

12 much. That's the policy statement. I will accept a second

13 from the Board.

14 MR. HAYES: Second.

15 THE CHAIRMAN: All in favor? Opposed

16 likewise? Motion carries.

17 ADMINISTRATIVE JUDGE: All right. If

18 there's nothing further, we'll stand adjourned in this matter.

19 Thank you, gentlemen.

20 (Whereupon, the hearing was concluded.)

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1 CERTIFICATE

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3 STATE OF TENNESSEE)

4 COUNTY OF DAVIDSON)

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6 I, WILMA O. HUTCHISON, Court Reporter and Notary,

7 State of Tennessee at Large, do hereby certify that I was
8 authorized to and did record the foregoing Excerpt of
9 Proceedings in this cause at the time and place aforesaid, and
10 that the transcript thereof is a true and accurate record of
11 the said Excerpt of Proceedings, to the best of my knowledge
12 and belief.

13 IN WITNESS WHEREOF, I have hereunto affixed my hand
14 and the seal of my office, this the 5th day of April 2010.

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Wilma O. Hutchison
Court Reporter &
Notary Public at Large
State of Tennessee

19 MY COMMISSION EXPIRES:

20 May 8, 2012.

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